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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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James Harold Gray

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AT&T Legal Department - SZ

Attn: Patent Docketing

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EXAMINER

PENG, FRED H

ART UNIT

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2426

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/735,346	Applicant(s) GRAY ET AL.	
	Examiner FRED PENG	Art Unit 2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-18 and 20-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-18 and 20-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/17/9</u> . | 6) <input type="checkbox"/> Other: _____ |

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Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/16/2009 has been entered.

DETAILED ACTION

Response to Arguments

2. Applicant's arguments filed 03/16/2009 have been fully considered but they are not persuasive.

Applicant argues on page 8 of Remarks that Matz does not anticipate features of receiving click stream data at a viewer appliance" and "receiving an identifier of a viewer who generated the click stream data as in Claims 1, 9, 18, 23 and 25.

The Examiner respectfully disagrees with applicant's arguments. Matz discloses a subscriber-action database including a click stream database. Each time a web-browser user clicks on a link in a web page, a record of the click is stored in a conventional click stream database..... Each action taken by a television subscriber, such as "channel up" and "channel down" are stored in a database with a time-stamp to allow tracking of the television subscriber's action (Col 6 lines 31-44). Therefore, anticipates receiving click stream data at a viewer appliance" and "receiving an identifier of a viewer who generated the click stream data" as in Claims 1, 9, 18, 23 and 25.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 3-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Matz (US 7,212,979).

Regarding claims 1 and 3, Matz teaches a system for capturing clickstream data from a viewer that are related to viewing content (Fig. 1), comprising:

a reception mechanism that receives programming from a distribution network that receives for clickstream data, the reception mechanism also receiving an identifier of a viewer who generated the user commands and a time at which a switch received the user commands (Fig. 1--124; col. 6, lines 23-44; a record of that click for a viewer is stored in a database inherently including an identifier of a viewer);

a transfer mechanism that establishes communication with a remotely located component and that concurrently forwards the clickstream data as the user commands are received (Fig. 1--120, 124; col. 6, line 28--transmitted via a processor; Col 6 lines 31-35; Col 7 lines 39-44; Col 8 lines 14-17; Col 12 lines 48-52; Col 14 lines 19-22; tracking a user's web page access such as purchase or surfing is establishing communication from the viewer's set-top box to the head-end's web server to connect to another website for access like shopping or surfing; col. 6, lines 26-35); and

a control mechanism that executes the clickstream data received by the reception mechanism to control an aspect of the content being provided to the viewer (col. 6, lines 26-44--"channel up" and "channel down" or web access).

Regarding claim 4, Matz teaches wherein concurrently forwarding the clickstream data comprises concurrently forwarding the clickstream data to a storage device (Fig. 1--128 and 132;

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col. 6, lines 61-62--subscriber content-choice database; col. 7, lines 45-51--subscriber information database).

Regarding claim 5, Matz teaches matching the clickstream data to a present context and concurrently forwarding the matching to the storage device (col. 6, lines 45- 62; col. 8, line 52-co1.9, line 14).

Regarding claim 6, Matz teaches determining a result of the clickstream data relative to a present context and concurrently forwarding the result to the storage device (col. 6, lines 45-62; col. 8, line 52-co1.9, line 14--determine category).

Regarding claims 7 and 16, Matz teaches wherein receiving the clickstream data at the viewer appliance comprises receiving the clickstream data at a set-top box (Fig. 1--Set-top box 124), and wherein forwarding the clickstream data comprises concurrently forwarding the clickstream data from the set-top box to a video control system (Fig. 1--Cable Operator Head-end 102).

Regarding claim 8, Matz teaches generating targeted advertising based upon the stored information related to the clickstream data (col. 12, line 63-co1.13, line 11- targeted advertisement).

Regarding claims 9 and 11, Matz teaches a method of capturing clickstream data from a viewer that are related to viewing content, comprising: receiving a clickstream data at a viewer appliance at a premises of the viewer (Fig. 1--124; col. 6, lines 23-27);

relative to receiving the clickstream data, concurrently forwarding the clickstream data from the viewer appliance to a component located remotely from the premises of the viewer (col. 6, lines 26-30; Fig. 1--120, 124; col. 6, line 28--transmitted via a processor); executing the

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clickstream data to alter an aspect of the content being viewed by the viewer (col. 6, lines 40-44--"channel up" and "channel down"); and sending an indication that the clickstream data has been executed (col. 6, lines 31-44-- clickstream data sent to the head-end).

The amended claimed features has been analyzed and described as in Claim 1.

Regarding claim 10, Matz teaches wherein executing the clickstream data comprises switching from one video stream to another video stream being provided to the premises of the viewer (col. 6, lines 40-44--"channel up" and "channel down").

Regarding claim 12, Matz teaches matching the clickstream data to a present context and including the matching in the clickstream data that is forwarded (col. 6, lines 40-44--date-time stamp).

Regarding claim 13, Matz teaches wherein matching the clickstream data to a present context comprises matching the clickstream data to a current time when the clickstream data is received (col. 6, lines 40-44--date-time stamp).

Regarding claim 14, Matz teaches determining the result of the clickstream data relative to a present context and including the result in the clickstream data that is forwarded (col. 6, lines 26-44--date-time stamp).

Regarding claim 15, Matz teaches wherein determining the result of the clickstream data comprises determining a change to a new video stream relative to the present context (col. 6, lines 26-44--"channel up" and "channel down" actions stored with a date-time stamp).

Regarding claim 17, Matz teaches choosing content based upon the clickstream data (col. 6, lines 40-44--"channel up" and "channel down" actions read on choosing content).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18 and 20-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matz (US 7,212,979) in view of Ward et al (US 2002/0100064).

Regarding claims 18, 23 and 25, Matz teaches a method of capturing a user command from a viewer that is related to viewing content, comprising: receiving programming from a distribution network at a viewer appliance; receiving the user command and an identifier of a viewer who generated the user command (col. 6, lines 23-44; a record of that click for a viewer is stored in a database inherently including an identifier of a viewer);

establishing communication from the viewer appliance to a remotely located component; capturing the user command and concurrently forwarding the user command from the viewer appliance to the remotely located component (col. 6, lines 26-27); and continuing to store information related to the user command at viewer appliance after the user command has been executed (col. 7, lines 22-25).

Matz discloses noting a time that the user command was received (Col 6 lines 41-44) but is not explicit about by a central switch.

In an analogous art, Ward discloses a router, a central switch, to extract timing information from the network signal and provide this timing information to the remaining studio components (Para 24 lines 18-22).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include noting a time that the user command was received by a central switch so a global sense of time can be achieved among various components.

Regarding claim 20, Matz teaches wherein the reception mechanism and the transfer mechanism are included in a set top box (Fig. 1--124; col. 6, lines 26-30).

Regarding claim 21, Matz teaches wherein the control mechanism is included in the set top box (Fig. 1--Set-top box 124; col. 6, lines 26-30).

Regarding claim 22, Matz teaches wherein the transfer mechanism concurrently forwards the clickstream data to a video control system located remotely from the premises of the viewer (Fig. 1--Cable Operator Head-end 102; col. 6, lines 26-30).

Regarding claim 24, Matz teaches executing the user command at the premises of the viewer (col. 6, lines 40-44--"channel up" and "channel down").

Regarding claim 26, Matz teaches executing the user command at the viewer appliance to alter an aspect of the content (Col 4 lines 49-51; purchase after viewing the program).

Regarding claim 27, Matz teaches concurrently forwarding the user command comprises concurrently forwarding the user command to a remote storage device (FIG.1, 122, 112; Col 5 lines 44-52).

Regarding claim 28, Matz teaches matching the user command to a present context (Col 4 lines 49-55; relates a purchase to an advertisement).

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Regarding claim 29, Matz teaches determining a result of the user command relative to the present context (Col 4 lines 41-55).

Regarding claim 30, Matz teaches generating targeted advertising based upon information related to the user command (Col 4 lines 41-55).

Regarding claim 31, Matz teaches the user command is concurrently forwarded as the user command is received, thus providing the remotely located component access to the user command (Col 5 lines 44-50; subscriber-action database providing the remotely located component access to the user command).

Regarding claim 32, Matz teaches concurrently forwarding the user command as a control message (Col 7 lines 1-8; program selection is a control message).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:00-18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fhp

/Joseph P. Hirl/
Supervisory Patent Examiner, Art Unit 2129